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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CARLSON, JEFFREY D

ART UNIT PAPER NUMBER

3622

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/634,219

Applicant(s)

PERLMUTTER, THOMAS

Examiner

Jeffrey D. Carlson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the paper(s) filed 11/12/03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 41-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 41 line 16, there is no antecedent basis for "the ending time."
- Claim 49, it is unclear what "completion" refers to without setting forth a pre-defined duration for the display of the ad.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al (US6329994) in view of Cezar ('651) (US6128651).

Regarding claims 41, 49, 59, 69, 80, 82, Gever et al teaches methods and systems for sending animations over a network to a user terminal (client with browser).

The animations are provided as advertising [28:35-37] as well as logos/insignias [19:1-3] and they are layered on top of other main browser content [fig 6B, col 21 lines 60-65, col 22 lines 5-8, col 28 lines 35-38]. The smart object animation is controlled by a transmitted script played by the client [col 28 line 65 to col 29 line 5]. Col 30-31 describes creation of a message content and script, both sent to a client over the Internet and activated via a browser visiting a URL. The animation is controlled by trigger events as defined by the animation script. The ad content is taken to be delivered from an ad source/server; the webpage content is taken to be delivered from a content source/server. Gever et al teaches neither timing nor tracking features for the ad content. Cezar ('651) teaches that a web browser starts a timer when the advertising is loaded. At the conclusion of the timer, the browser reports to a central controller in order to log a full advertising impression [2:22-33, 3:33-35]. It would have been obvious to one of ordinary skill at the time of the invention to have provided such a timer feature with the animation content so that the client of Gever et al can report to a central server when ads were displayed to "completion."

Regarding claims 42, 52, 62, 74, Cezar ('651) teaches the webpage to be coded with ad location information so that the ads cannot be scrolled off the user's screen [2:24-26]. It would have been obvious to one of ordinary skill at the time of the invention to have provided such a feature with that of Gever et al so that the animated ad content is more persistent and effective.

Regarding claims 43-45, 53-55, 63-65, 75-77, Gever et al teaches that the animation content include sound [14:54]. Gever et al also teaches that the animation

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content could include text [19:1-3]. It would have been obvious to one of ordinary skill at the time of the invention to have provided any well known content format such as video with the animation of Gever et al in order to enhance the attractiveness of the content.

Regarding claims 46, 47, 56, 57, 66, 67, 78, the animated layer(s) obscure (prevent access to) the main content layer beneath [col 21 line 63-col 22 line 8]. As seen in at least figure 6A, the top animation layer (114) is opaque and conceals the webpage content layer beneath.

Regarding claim 48, 58, 68, 79, it is taken to be have been obvious if not inherent that an error such as a required file being corrupted or missing results in the termination of the animation, so that the user can fully access the requested webpage content in the event of a problem.

Regarding claim 50, 60, 70, 81, Cezar ('651) teaches that Java script is responsible for the timer/tracking and this script is taken to be "incorporated into the source code" of the webpage.

Regarding claim 51, 61, 71, it would have been obvious to one of ordinary skill at the time of the invention to have removed the animation when the animation is complete, so that the user can then access the underlying main content otherwise inaccessible during the advertising animation. Further, removal of such advertising would be less intrusive to users after its pre-defined duration has expired, reducing ill-will towards the advertisers. Sending the tracking message responsive to the timeout of

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the ad duration is taken to inherently occur

"after" completion.

Regarding claims 72, 73, as stated above, the ad content is taken to be delivered from an ad source/server; the webpage content is taken to be delivered from a content source/server. No limitations are required that they be necessarily the same, or different servers. Further, claiming that they are both the same servers on one hand, and different servers on the other suggests a lack of criticality regarding the distribution of the server(s).

Response to Arguments

Applicant argues that Gever et al has "nothing" to do with advertising and yet points out the reference to advertising upon which examiner is relying. Further, Gever et al teaches that the animation content can include a logo or insignia which is also taken to be advertising [19:1-3]. Gever et al is taken to teach advertising methods.

The ad content is taken to be delivered from an ad source/server; the webpage content is taken to be delivered from a content source/server. No limitations are required that they be necessarily the same, or different servers. Further, claiming that they are both the same servers on one hand, and different servers on the other suggests a lack of criticality regarding the distribution of the server(s).

Applicant argues that Gever et al does not obscure the content layer. Gever et al is believed to do so at least in the animation region.

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Applicant's other arguments are essentially addressed by the application of the new Cezar ('651) reference.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Park et al (US6295061) teaches ad layers appearing near a browser's curser.
- Markowitz et al (US6311185) teaches providing ad layers, fading ads and a translucent logo on top of web page content [3:44-50]

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 703-308-3402. The examiner can normally be reached on Mon-Fri 8:30-6p, (off on alternate Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey D. Carlson
Primary Examiner
Art Unit 3622

jdc